

BILL TEXT Report for H.R.2264

As returned to the House, after passage in the Senate, June 25, 1993

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TITLE IV--COMMUNICATIONS AND TRANSPORTATION

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Subtitle A--Spectrum Allocation and Auction  
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SEC. 4001. SHORT TITLE.

This subtitle may be cited as the "Emerging Telecommunications Technologies Act of 1993".

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SEC. 4002. FINDINGS.

The Congress finds that--

(1) the Federal Government currently reserves for its own use, or has priority of access to, approximately 40 percent of the electromagnetic spectrum that is assigned for use pursuant to the Communications Act of 1934;

(2) many of such frequencies are underutilized by Federal Government licensees;

(3) the public interest requires that many of such frequencies be utilized more efficiently by Federal Government and non-Federal licensees;

(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial providers or other vendors;

(5) scarcity of assignable frequencies for licensing by the Commission can and will--

(A) impede the development and commercialization of new telecommunications products and services;

(B) limit the capacity and efficiency of telecommunications systems in the United States;

(C) prevent some State and local police, fire, and emergency services from obtaining urgently needed radio channels; and

(D) adversely affect the productive capacity and international competitiveness of the United States economy;

(6) a reassignment of these frequencies can produce significant economic returns;

(7) a reassignment of Federal Government frequencies can be accomplished without adverse impact on amateur radio licenses that currently share allocations with Federal Government stations;

(8) current spectrum assignment procedures--comparative hearings and lotteries--can be expensive and time consuming, can strain the limited resources of the Federal Communications Commission, and can result in an inefficient distribution of spectrum and an unjustified windfall to speculators;

(9) competitive bidding could reduce the cost in time and money--and increase the efficiency--of the spectrum assignment process for certain radio services, discourage speculative applications, encourage the efficient use of spectrum by licensees, and fairly compensate United States taxpayers for use of a scarce public natural resource;

(10) competitive bidding should be structured to--

(A) facilitate introduction of new spectrum-based technologies and services and entry of new companies into the telecommunications market;

(B) recognize the legitimate needs of rural telephone companies in providing spectrum-based, common carrier services in rural markets in which they provide telephone exchange service by wire;

(C) give appropriate consideration to small businesses and minority-owned businesses that want to participate in the competitive bidding process;

(D) recognize the need to make reasonably priced mobile communications services available to businesses in rural areas;

(E) recognize the need to ensure that adequate spectrum continues to be available for public safety services; and

(F) otherwise further the public interest;

(11) competitive bidding should apply only to the granting of new spectrum licenses and should not--

(A) disrupt the operations of existing spectrum licensees;

(B) alter existing spectrum allocation procedures;

(C) apply to certain services governed by public interest regulations;

(D) diminish the existing authority of the Federal Communications Commission to regulate or reclaim spectrum licenses;

(E) prevent or discourage the allocation of spectrum to meet the current or future needs of public safety services; or

(F) grant any right to a spectrum licensee different from the rights awarded to licensees who obtain their license through assignment methods other than competitive bidding;

(12) in appropriating revenues received from competitive bidding, priority should be given to--

(A) funding spectrum management, planning, monitoring, and enforcement and other activities of the Federal Communications Commission, the National Telecommunications and Information Administration, and other Federal agencies aimed at increasing the efficiency and effectiveness of spectrum use, facilitating the introduction of new spectrum-based technologies and services, and enhancing the international competitiveness of the United States and the ability of American companies to enter new markets; and

(B) extending the reach of public radio and television to underserved areas of the United States and underserved groups of Americans and enhancing the ability of public telecommunications to deliver needed original, high-quality public service programming; and

(13) because commercial mobile services require a Federal license and the Federal Government is attempting to promote competition for such services, and because providers of such services do not exercise market power vis-a-vis telephone exchange service carriers and State regulation can be a barrier to the development of competition in this market, uniform national policy is necessary and in the public interest.

## SEC. 4003. NATIONAL SPECTRUM PLANNING.

(a) Planning Activities.--The Assistant Secretary of Commerce for Communications and Information and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues:

(1) the future spectrum requirements for public and private uses, including State and local government public safety agencies;

(2) the spectrum allocation actions necessary to accommodate those uses; and

(3) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference, as a means of increasing commercial access.

(b) Report On Planning Activities.--Not later than 24 months after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information and the Chairman of the Commission shall submit a joint report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the joint spectrum planning activities conducted under subsection (a) and recommendations for action developed pursuant to such activities. The report shall contain recommendations for the reform of the process of allocating spectrum between Federal uses and non-Federal uses.

(c) Procedures To Ensure Opportunity for Minority-Owned Businesses and Small Businesses.--The Commission shall develop procedures to ensure that minority-owned businesses and small businesses are given the opportunity to provide spectrum-based services. In developing such procedures, the Commission shall consider the use of tax certificates and bidding preferences.

(d) Study on Spectrum Needs of Public Safety Agencies.--The Commission shall complete and submit to Congress, not later than 18 months after the date of enactment of this Act, a study of current and future spectrum needs of State and local government public safety agencies through the year 2010, and a specific plan to satisfy those spectrum needs.

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## SEC. 4004. RECOMMENDATIONS FOR REALLOCATION OF CERTAIN FREQUENCIES.

(a) Identification Required.--For purposes of reallocation, the Secretary shall identify frequencies that--

(1) are allocated on a primary basis for Federal Government use;

(2) are not required for the present or identifiable future needs of the Federal Government;

(3) can feasibly be made available, as of the date of such identification or at any time during the next 15 years, for use under the Act (other than for Federal Government stations under section 305 of the Act) without resulting in costs to the Federal Government, or loss of services or benefits to the public, that are excessive in relation to the benefits to the public that may be provided by non-Federal licensees; and

(4) are most likely to have the greatest potential for productive uses and public benefits under the Act if allocated for commercial uses.

(b) Minimum Amount of Spectrum Recommended.--

(1) Overall recommendation.--In accordance with the provisions of this section, the Secretary shall recommend for reallocation, for use other than by Federal Government stations under section 305 of the Act (47 U.S.C. 305), at least 200 megahertz of frequencies identified under subsection (a) that are located below 5 gigahertz. At least one-half of such frequencies shall be located below 3 gigahertz.

(2) Mixed uses permitted to be counted.--Among the frequencies recommended under this section for reallocation, the Secretary may include frequencies and frequency bands that are to be partially retained for use by Federal Government stations but that are also recommended to be reallocated under the Act for use by non-Federal stations, except that--

(A) such mixed-use frequencies and frequency bands may not count toward more than one-half of the 200 megahertz minimum required by paragraph (1);

(B) such mixed-use frequencies and frequency bands may not be so counted unless the assignments of the frequencies to Federal Government stations under section 305 of the Act (47 U.S.C. 305) are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by such Federal Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential use to be made by non-Federal stations; and

(C) the operational sharing permitted under this paragraph shall be subject to coordination procedures that the Commission and the Secretary shall jointly establish and implement to ensure against harmful interference.

(c) Consideration of Criteria for Identification.--

(1) Needs of the federal government.--In determining whether a frequency meets the criteria specified in subsection (a)(2), the Secretary shall--

(A) consider whether the frequency is used to provide a communications service that is or could be made available from a commercial carrier or other vendor;

(B) seek to promote--

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable; and

(C) seek to avoid--

(i) serious degradation of Federal Government services and operations;

(ii) excessive costs to the Federal Government and users of Federal Government services; and

(iii) excessive disruption of existing use of Federal Government frequencies by amateur radio licensees.

(2) Feasibility of use.--In determining whether a frequency meets the criteria specified in subsection (a)(3), the Secretary shall--

(A) assume that the frequency will be assigned by the Commission under section 303 of the Act (47 U.S.C. 303) within 15 years;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) seek to include frequencies which can be used to stimulate the development of new technologies; and

(D) consider the immediate and recurring costs to reestablish services displaced by the reallocation of spectrum.

(3) Commercial use.--In determining whether a frequency meets the criteria specified in subsection (a)(4), the Secretary shall consider--

(A) the extent to which equipment is available that is capable of utilizing such frequency;

(B) the proximity of frequencies that are already assigned for commercial or other non-Federal use;

(C) the extent to which, in general, commercial users could share the frequency with amateur radio licensees; and

(D) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.

(4) Other uses.--

(A) Applicability of criteria.--The criteria specified by subsection (a) shall be deemed not to be met for any purpose under this subtitle with regard to any frequency assignment to, or any frequency assignment used by, a Federal power agency for the purpose of withdrawing that assignment.

(B) Mixed use eligibility.--The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas, but in those cases where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall not cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

(C) Definition.--As used in this paragraph, the term "Federal power agency" means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, or the Southwestern Power Administration.

(d) Procedure for Identification of Reallocable Bands of Frequencies.--

(1) Report identifying 30 megahertz for immediate reallocation.--Within 6 months after the date of enactment of this Act, the Secretary shall prepare and submit to the President and the Congress a report that recommends for immediate reallocation no less than 30 megahertz of frequencies identified under subsection (a). None of the frequencies covered by such report may be allocated for mixed use as described in subsection (b)(2). Not less than one-half of such frequencies shall be located below 3 gigahertz.

(2) Preliminary report on other reallocable frequencies.--Within 6 months after the date of enactment of this Act, the Secretary shall prepare, make publicly available, and submit to the President and the Congress a preliminary report that recommends for reallocation at least 170 megahertz of frequencies identified under subsection (a), other than those recommended for immediate reallocation under paragraph (1).

(3) Public comment; changes to report.--The Secretary shall receive public comment on the preliminary report required by paragraph (2) and shall, based upon the comments, make such changes to the report as are warranted to meet the objectives of this section.

(4) Direct discussions.--The Secretary shall encourage and provide opportunity for direct discussions among commercial representatives and Federal Government users of the spectrum to aid the Secretary in determining which frequencies to recommend for reallocation. The Secretary shall provide notice to the public of any such discussions, including the name or names of any businesses or other persons represented in such discussions, and shall provide the public with an opportunity to comment on the results of any such negotiations prior to the submission of the final report required by paragraph (5).

(5) Final report on other reallocable frequencies.--Within 18 months after the date of enactment of this Act, the Secretary shall prepare and submit to the President and the Congress a final report that recommends the reallocation of at least 170 megahertz of frequencies as described in paragraph (2). Not less than one-half of such frequencies shall be located below 3 gigahertz.

(6) Limitation on reallocation.--None of the frequencies recommended for reallocation in the reports required by this subsection shall have been recommended, prior to the date of enactment of this Act, for reallocation to non-Federal use by international agreement.

(e) Timetable for reallocation and limitation.--The Secretary shall, as part of the reports required by paragraphs (1) and (2) of subsection (d), include a timetable that recommends dates by which the President shall withdraw or limit assignments of the frequencies specified in the reports. In setting the recommended effective dates, the Secretary shall--

(1) consider the need to reallocate frequencies as early as possible, taking into account the requirements of section 406;

(2) consider the useful remaining life of equipment that has been purchased or contracted for purchase to operate on identified frequencies;

(3) consider the need to coordinate frequency use with other nations; and

(4) take into account the relationship between the costs to the Federal Government of changing to different frequencies and the benefits that may be obtained from commercial and other non-Federal uses of the reassigned frequencies.



SEC. 4005. WITHDRAWAL OR LIMITATION OF ASSIGNMENT TO FEDERAL GOVERNMENT STATIONS.

(a) In General.--The President shall--

(1) within 12 months after receipt of the report required by section 404(d)(1), withdraw the assignment to a Federal Government station of any frequency in the frequencies recommended by that report for immediate reallocation;

(2) by the effective date recommended by the Secretary under section 404(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a Federal Government station of any frequency which the report required by section 404(d)(3) recommends be reallocated or made available for mixed use on such recommended effective date;

(3) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

(b) Exceptions.--

(1) Authority to substitute.--If the President determines that a circumstance described in paragraph (2) exists, the President--

(A) may substitute an alternative frequency for the frequency that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency in the manner required by subsection (a); and

(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) Grounds for substitution.--Each of the following subparagraphs describes a circumstance referred to in paragraph (1):

(A) The reassignment would seriously jeopardize the national defense interests of the United States.

(B) The frequency proposed for reassignment is uniquely suited to meeting important governmental needs.

(C) The reassignment would seriously jeopardize public health or safety.

(D) The reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial or other non-Federal uses of the reassigned frequency.

(E) The reassignment will disrupt the existing use of a Federal Government band of frequencies by amateur radio licensees.

(3) Criteria for substituted frequencies.--For purposes of paragraph (1), a frequency may not be substituted for a frequency identified and recommended under section 404 for reallocation, unless the substituted frequency also meets each of the criteria specified by section 404(a).

(4) Delays in implementation.--If the President determines that any action cannot be completed by the effective date recommended by the Secretary pursuant to section 404(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 404(b), the President may--

(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each Committee specified in paragraph (1)(B) and the Commission of the reason that withdrawal or limitation at a later date is required; or

(B) substitute alternative frequencies pursuant to this subsection.

(c) Costs of Withdrawing Frequencies Assigned to the Federal Government.--

(1) Reimbursement authorized.--Any Federal agency, or non-Federal entity operating on behalf of a Federal agency, whose operation is displaced from a frequency pursuant to this section may be reimbursed, from revenues received pursuant to section 408, not more than the incremental costs such agency or entity incurs (in such amounts as are provided in advance in an appropriations Act) that are directly attributable to the displacement from the frequency. The estimates of these costs shall be prepared by the affected agency, in consultation with the Department of Commerce.

(2) Authorization of appropriations.--There are authorized to be appropriated to the affected Federal agencies such sums as may be necessary to carry out the purposes of this subsection.

(d) Existing Authority Retained.--

(1) Additional reallocation.--Nothing in this subtitle prevents or limits additional reallocation of spectrum from the Federal Government to the commercial or other sectors.

(2) Implementation of new technologies and services.--Notwithstanding any other provision of this subtitle--

(A) the Secretary may at any time allow frequencies allocated on a primary basis for Federal Government use to be used by non-Federal licensees on a mixed-use basis for the purpose of facilitating the prompt implementation of new technologies or services; and

(B) the Commission shall expedite and give priority to the allocation of any frequencies identified pursuant to subparagraph (A), and any associated licensing.

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SEC. 4006. ALLOCATION AND ASSIGNMENT OF FREQUENCIES BY THE COMMISSION.

(a) Allocation and Assignment of Immediately Available Frequencies.--With respect to the frequencies made available for immediate reallocation pursuant to section 405(a)(1), the Commission, not later than 18 months after the date of enactment of this Act, shall issue rules to allocate such frequencies and shall propose rules to assign such frequencies.

(b) Allocation and Assignment of Remaining Available Frequencies.--With respect to the frequencies made available for reallocation pursuant to section 405(a)(2), the Commission shall, not later than 1 year after receipt of the final report identified in section 404(d)(4), prepare, in consultation with the Assistant Secretary of Commerce for Communications and Information, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the Act of such frequencies. Such plan shall--

(1) not propose the immediate allocation and assignment of all such frequencies but, taking into account the timetable recommended by the Secretary pursuant to section 404(e), shall propose--

(A) gradually to allocate and assign the frequencies remaining, after making the reservation required by subparagraph (B), over the course of 10 years beginning on the date of submission of such plan; and

(B) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(2) contain appropriate provisions to ensure the availability of frequencies for (A) new technologies and services in accordance with the policies of section 7 of the Act (47 U.S.C. 157) and (B) the safety of life and property in accordance with the policies of section 1 of the Act (47 U.S.C. 151);

(3) address (A) the feasibility of reallocating portions of the spectrum from current commercial and other non-Federal uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations;

(4) not prevent the Commission from allocating frequencies, and assigning licenses to use frequencies, not included in the plan; and

(5) not preclude the Commission from making changes to the plan in future proceedings.

(c) Amendment to the Act.--Section 303 of the Act (47 U.S.C. 303) is amended by adding at the end the following new subsection:

"(v) Have authority to assign licenses to use the frequencies reallocated from United States Government use to non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1993; except that any such assignment shall be made expressly subject to the right of the President to reclaim such frequencies under section 7 of such Act."

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#### SEC. 4007. AUTHORITY TO RECLAIM REASSIGNED FREQUENCIES.

(a) Authority of President.--Subsequent to the withdrawal of assignment to Federal Government stations pursuant to section 405, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

(b) Procedure for Reclaiming Frequencies.--

(1) Unallocated frequencies.--If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substitution of frequencies established by section 405(b) of this subtitle.

(2) Allocated frequencies.--If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 405(b) of this subtitle, except that the notification required by section 405(b)(1)(B) shall include--

(A) a timetable to accommodate an orderly transition for displaced licensees to obtain new frequencies and equipment necessary for its utilization; and

(B) an estimate of the cost of displacing spectrum uses licensed by the Commission.

(c) Costs of Reclaiming Frequencies; Appropriations Authorized.--The Federal Government shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(d) Effective Date of Reclaimed Frequencies.--The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which the President's notification is received.

(e) Effect on Other Law.--Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Act (47 U.S.C. 606).

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## SEC. 4008. COMPETITIVE BIDDING.

### (a) Competitive Bidding.--

#### (1) In general.--

(A) Five-year authorization.--The Commission shall, during fiscal years 1994 through 1998, use the competitive bidding process authorized under the amendment made by subsection (b) to grant all radio spectrum licenses for which two or more mutually exclusive applications have been filed, including the 200 megahertz of spectrum made available to the Commission under this subtitle, and including the licenses issued for a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services", or any successor proceeding, except for those licenses identified in subparagraphs (A) through (E) of section 309(j)(4) of the Act and those licenses that the Commission determines should in the public interest be issued by comparative hearing under section 309(a) through (f) of the Act. To the extent possible, and consistent with the purposes of this subtitle, the Commission shall seek to ensure that revenues received pursuant to the competitive bidding process are received before the end of fiscal year 1998.

(B) Expiration of requirements.--The requirements of subparagraph (A) shall expire either--

(i) upon a determination by the Secretary of the Treasury that competitive bidding has resulted in or is reasonably expected to result in the receipt of \$7,200,000,000 by the end of fiscal year 1998, or

(ii) at the end of fiscal year 1998, whichever is earlier.

(C) Report to president and congress.--The Commission shall prepare, in consultation with the Assistant Secretary of Commerce for Communications and Information, and submit to the President and the Congress, not later than March 31, 1997, and March 31, 1999, reports on the use of competitive bidding under subparagraph (A). Such reports shall examine, in addition to any other matters deemed appropriate by the Commission, whether and to what extent--

(i) competitive bidding significantly improved the efficiency and effectiveness of the process for granting radio spectrum licenses;

(ii) competitive bidding facilitated the introduction of new spectrum-based technologies and the entry of new companies into the telecommunications market;

(iii) the needs of rural spectrum users were adequately addressed in the competitive bidding process;

(iv) small businesses and minority-owned businesses were able to participate successfully in the competitive bidding process; and

(v) statutory changes are needed to improve the competitive bidding process.

(2) Retention of revenues.--Notwithstanding paragraph (6) of section 309(j) of the Act, as added by this subtitle, the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from the receipts received pursuant to such section for the costs of developing and implementing the program required by subsection (a)(1)(A). Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Any funds appropriated to the Commission for fiscal years 1994 through 1998 for the purpose of assigning licenses using random selection under section 309(i) of the Act shall be used by the Commission to implement section 309(j) of the Act.

(b) Competitive Bidding Authorization.--Section 309 of the Act (47 U.S.C. 309) is amended by adding at the end the following new subsection:

"(j)(1) Subject to the exemptions and conditions set forth in the other provisions of this subsection, if there are two or more mutually exclusive applications for any construction permit or initial license which will involve any use of the electromagnetic spectrum, the Commission shall have authority to use competitive bidding in the granting of such construction permit or initial license.

"(2)(A) The Commission shall, within 6 months after the date of enactment of the Emerging Telecommunications Technologies Act of 1993 and following public notice and comment proceedings, issue rules establishing competitive bidding procedures under this subsection. Such rules shall include safeguards to protect the public interest in the use of the spectrum and shall ensure the opportunity for successful participation by small businesses and minority-owned businesses.

"(B)(i) In the rules issued pursuant to subparagraph (A), the Commission shall require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission shall require the winning bidder to file a second-stage application. After determining that such application is acceptable for filing and that the winning bidder is qualified as described in clause (ii), the Commission shall grant the permit or license to the winning bidder.

"(ii) No permit or license shall be granted to a winning bidder pursuant to clause (i) unless the Commission determines that such winning bidder is qualified pursuant to section 308(b) and subsection (a) of this section, on the basis of the information contained in the first-stage and second-stage applications submitted pursuant to clause (i).

"(iii) Each participant in the competitive bidding process shall be subject to the schedule of charges contained in section 8.

"(C) In the rules issued pursuant to subparagraph (A), the Commission, in addition to other actions it finds necessary to implement competitive bidding fairly and effectively, shall--

"(i) establish the method of bidding (including but not limited to sealed bids) and the basis for payment (such as installment or lump sum payments, royalties on future income, a combination thereof, or other reasonable forms of payment specified by the Commission); and

"(ii) establish other appropriate conditions on such permits and licenses that serve the public interest.

"(3)(A)(i) If the Commission decides to use competitive bidding to grant two or more national, regional, or local licenses per market in a terrestrial service that will compete with telephone exchange service provided by a qualified common carrier, the Commission shall designate one such license per market as a rural program license.

"(ii) The Commission shall define the geographic boundaries of the rural program license to correspond to the geographic area of the telephone exchange service by which the qualified common carrier became eligible for the rural program license under subparagraph (E)(ii).

"(B)(i) Except as provided in subparagraph (D), the Commission shall either grant a rural program license to the qualified common carrier providing telephone exchange service in the area covered by such license, or grant a license to a consortium of such qualified carriers.

"(ii) No qualified common carrier that receives a rural program license shall be eligible to--

"(I) receive any other license to provide the same service in such area; or

"(II) own any equity interest in, become a creditor of, or otherwise become affiliated with any entity that holds a license to provide the same service in such area.

"(iii) Any qualified common carrier that receives a rural program license shall (I) provide to all other licensees providing the same service in such area the same quality of access to its wire network that it provides itself, and (II) shall interconnect its wireless service with the wireless service provided by another licensee providing the same service on the same frequency in a different geographic area. Such other licensee shall provide an equivalent interconnection with the wireless service of such rural program licensee.

"(iv) The Commission may establish other rules or conditions for the award of a rural program license, consistent with the intent of this paragraph.

"(C)(i) Upon the grant of a rural program license to a qualified common carrier, such carrier shall pay a fee (in lump sum or installment payments, in royalties on future income, in a combination thereof, or on any other reasonable basis specified by the Commission) equal to the value of such license. The value of such license shall be the average of the amounts paid by persons granted licenses through competitive bidding to provide the same service in such area, except that the Commission shall determine the value of such license by any reasonable means when the geographic area served by the rural program license is not congruent with the geographic area served by the other license or licenses. The Commission shall ensure that the total amount paid by qualified common carriers for all the licenses issued to them under the rural program shall equal the total value, as determined under clause (ii), of such licenses.

"(ii) The Commission shall determine the total value of the licenses issued under the rural program to qualified common carriers by first adding the amounts paid for the licenses not subject to the rural program, and dividing that sum by the number of licenses per market that are not subject to the rural program. The Commission shall then subtract from the amount found in the previous calculation the total amount paid for the licenses issued for the non-rural areas under bidding subject to the rural program and the total amount paid for licenses issued pursuant to subparagraph (D). The amount remaining shall be the total value of all the licenses issued under the rural program to qualified common carriers.



"(D) If no qualified common carrier applies for a rural program license in a particular market and the Commission awards the non-rural program licenses through competitive bidding, the rural program shall not apply for that particular market and the Commission shall use competitive bidding to award the licenses for the former rural program areas, either separately or as part of larger license areas.

"(E) For purposes of this paragraph--

"(i) the term 'rural area' means any geographic area that does not include either--

"(I) any incorporated place of 10,000 inhabitants or more, or any part thereof; or

"(II) any territory, incorporated or unincorporated, included in an urbanized area (as defined by the Bureau of the Census as of the date of enactment of the Emerging Telecommunications Technologies Act of 1993); and

"(ii) the term 'qualified common carrier' means a common carrier that--

"(I) either provides telephone exchange service by wire in a rural area, provides telephone exchange service by wire to less than 10,000 subscribers, or is a telephone utility whose income accrues to a State or political subdivision thereof; and

"(II) submits an application for a rural program license that meets the standards established by the Commission to determine ability to provide the service covered by the license.

"(F) The provisions of subparagraph (A)(ii) do not limit the Commission's discretion to determine, for licenses issued other than under this paragraph, the size of any market area or the number of licensees for any service.

"(4) The competitive bidding authority provided to the Commission in paragraph (1) shall not--

"(A) because of the need to avoid excessive service disruption, extend to license renewals and modifications;

"(B) because of the essential services they provide, extend to licenses reserved for the United States Government and State or local government entities;

"(C) because of their public service obligations, extend to licenses to provide amateur operator services, over-the-air terrestrial radio and television broadcast services, public safety services, and radio astronomy services;

"(D) because they do not involve mutually exclusive applications, extend to private radio end-user licenses, including Specialized Mobile Radio Service (SMRS), maritime, and aeronautical end-user licenses;

"(E) because of the need to avoid excessive service disruption, extend to any license grant to a non-Federal licensee being moved from its current frequency assignment to a different one by the Commission in order to make spectrum available for new technologies; and

"(F) extend to any other service, class of services, or assignments that the Commission determines, after conducting public notice and comment proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption to the extent the Commission determines the use of competitive bidding would jeopardize appropriate treatment of those factors.

"(5) No provision of this subsection or of the Emerging Telecommunications Technologies Act of 1993 shall be construed, in any way, to--

"(A) alter spectrum allocation criteria and procedures established by the other provisions of this Act;

"(B) allow the Commission to consider potential revenues from competitive bidding when making decisions concerning spectrum allocation;

"(C) diminish the authority of the Commission under the other provisions of this Act to regulate or reclaim spectrum licenses;

"(D) grant any right to a spectrum licensee different from the rights awarded to licensees who obtained their license through assignment methods other than competitive bidding; or

"(E) prevent the Commission from awarding licenses to those persons who make significant contributions to the development of a new telecommunications service or technology.

"(6) Moneys received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the Treasury."

(c) State and Local Tax Treatment of Licenses and Permits.--Title VII of the Act (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

**"SEC. 714. STATE AND LOCAL TAX TREATMENT OF LICENSES AND PERMITS.**

"A license or permit issued by the Commission under this Act shall not be treated as the property of the licensee for property tax purposes, or other similar tax purposes, by any State or local government entity."

## SEC. 4009. REGULATORY PARITY.

(a) Amendment.--Section 332 of the Act (47 U.S.C. 332) is amended--

(1) by striking "private land" from the heading of the section; and

(2) by amending subsection (c) to read as follows:

"(c)(1)(A) A person engaged in the provision of commercial mobile services shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this Act, except that the Commission may waive the requirements of sections 203, 204, 205, and 214, and the 30-day notice provision of section 309(a), for commercial mobile services and such other provisions of title II as the Commission may, consistent with the public interest, specify by rule. In prescribing any such rule, the Commission may not waive for commercial mobile services the requirements of section 201, 202, 206, 208, 209, 215(c), 216, 217, 220 (d) or (e), 223, 225, 226 (a), (b), (c), (d), (e), (f), (g), or (i), 227, or 228, or any other provision that is necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with commercial mobile services are just and reasonable and are not unjustly or unreasonably discriminatory or that is otherwise in the public interest.

"(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to section 201. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection under this Act.

"(2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent that such dispatch service is provided on stations licensed by the Commission in the Specialized Mobile Radio Service prior to May 24, 1993, or is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence if the commission determines that such termination will service the public interest.

"(3)(A) Notwithstanding sections 2(b) and 221(b), no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private land mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the continued availability of telephone exchange service at affordable rates.

"(B) Notwithstanding subparagraph (A), a State may petition the Commission for authority to regulate the rates for any commercial mobile service if such State demonstrates that (i) such service is a substitute for land line telephone exchange service for a substantial portion of the communications within such State, or (ii) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

"(C) If a State has in effect on June 1, 1993, any regulation concerning the rates for any commercial mobile service, such State may, no later than 1 year after the date of enactment of the Emerging Telecommunications Technologies Act of 1993, petition the Commission requesting that the State be authorized to continue exercising authority over such rates. The State's existing regulation shall, notwithstanding subparagraph (A), remain in effect until the Commission issues a final order granting or denying such petition. The Commission shall review such petition in accordance with the procedures and schedule established in subparagraph (B), and shall grant such petition if the State satisfies the showing required under subparagraph (B)(i) or (B)(ii). If the Commission grants such petition, the Commission shall authorize the State to exercise under the State law such authority over rates, for such period of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

"(D) After a reasonable period of time, as determined by the Commission, has elapsed from the issuance of an order under subparagraph (B) or (C), any interested party may petition the Commission for an order that the exercise of authority by a State pursuant to such subparagraph is no longer necessary to ensure that the rates for commercial mobile services are just and reasonable and not unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition in whole or in part.

"(4) Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite Act of 1962 of the corporation authorized by title III of such Act.

"(5) The Commission shall continue to determine whether the provision of space segment capacity by satellite systems to providers of commercial mobile services shall be treated as common carriage.

"(6) The provisions of section 310(b) shall not apply to any lawful foreign ownership in a provider of commercial mobile services prior to May 24, 1993, if that provider was not regulated as a common carrier prior to the date of enactment of the Emerging Telecommunications Technologies Act of 1993 and is deemed to be a common carrier under this Act.

"(7) As part of any proceeding under this subsection the Commission (i) shall consider in such proceeding the ability of new entrants to compete in the services to which such proceeding relates, and (ii) shall have the flexibility to amend, modify, or forbear from any regulation of new entrants under this subsection, or, consistent with the public interest, take other appropriate action, to provide a full opportunity for new entrants to compete in such services.

"(8) For purposes of this section--

"(A) the term 'commercial mobile service' means any mobile service (as defined in section 3(n)) that, as specified by regulation by the Commission, is provided for profit and makes interconnected service available (i) to the public or (ii) to such broad classes of eligible users as to be effectively available to a substantial portion of the public;

"(B) the term 'interconnected service' means service that is interconnected with the public switched network (as such term is defined by regulation by the Commission) or service for which interconnection pursuant to paragraph (1)(B) is pending; and

"(C) the term 'private land mobile service' means any mobile service (as defined in section 3(n)) that is not a commercial mobile service under subparagraph (A)."

(b) Conforming Amendments.--

(1) Definition of mobile service.--Section 3 of the Act (47 U.S.C. 153) is amended--

(A) in subsection (n)--

(i) by inserting "(1)" immediately after "and includes"; and

(ii) by inserting immediately before the period at the end the following: ", (2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled 'Amendment to the Commission's Rules to Establish New Personal Communications Services' (GEN Docket No. 90-314; ET Docket No. 92-100), or any

successor proceeding; but such term does not include any rural radio service as defined by the Commission and does not include the provision, by a local exchange carrier, of telephone exchange service by radio instead of by wire"; and

(B) by striking subsection (gg).

(2) Regulation of intrastate communications.--Section 2(b) of the Act (47 U.S.C. 152(b)) is amended by inserting "and section 332" immediately after "inclusive,".

(c) Rulemaking Schedule; Effective Date.--

(1) Rulemaking required.--Within 1 year after the date of enactment of this Act, the Commission shall--

(A) issue such modifications or terminations of its regulations as are necessary to implement the amendments made by subsection (a);

(B) make such other modifications of such regulations as may be necessary to promote parity in the regulatory treatment of providers of all commercial mobile services that offer services that are substantially similar; and

(C) include in such modifications and terminations such provisions as are necessary to provide for an orderly transition to the regulatory treatment required by such amendments.

(2) Effective date.--The amendments made by subsection (a) shall be effective 1 year after such date of enactment, except that--

(A) section 332(c)(1)(A) of the Act, as added by such amendments, shall take effect upon such date of enactment; and

(B) any person that provides private land mobile services before such date of enactment shall continue to be treated as a provider of private land mobile service until 3 years after such date of enactment.

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## SEC. 4010. DEADLINES FOR PCS ORDERS AND LICENSING.

The Commission shall--

(1) within 180 days after the date of enactment of this Act, issue a final report and order (A) in the matter entitled "Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies" (ET Docket No. 92-9); and (B) in the matter entitled "Amendment of the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100); and